IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE PIUS C.KURIAKOSE

TUESDAY, THE 12TH JUNE 2007 / 22ND JYAISHTA 1929

WP(C).No. 24309 of 2005(R)

OS.556/2003 of MUNSIFF'S COURT, CHITTUR
.....

PETITIONER:

UNNIKRISHNAN, S/O. RAMAKRISHNAN,
KUNNUKADU, THENKURISSI AMSOM,
ALATHUR TALUK.

BY ADV. SRI.K.I.MAYANKUTTY MATHER
SRI.SUNIL SHANKER

RESPONDENT:

THANKAKUTTIAMMA, D/O. THILOTHAMA
AMMA, 4/312, POURANAMI, KUZHALMANNAM ROAD,
KODUVAYOOR, CHITTOOR TALUK.

BY ADV. SRI.RAJESH SIVARAMANKUTTY

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 12/06/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

APPENDIX

PETITIONER'S EXTS:

EXT.P1 – TRUE COPY OF PLAINT IN O.S.556/03 OF MUNSIFF'S COURT, CHITTUR.

EXT.P2 – TRUE COPY OF WRITTEN STATEMENT IN O.S.556/03 OF DO.

EXT.P3 – TRUE COPY OF ORDER OF MUNSIFF'S COURT, CHITTUR.

/TRUE COPY/

PIUS C. KURIAKOSE, J.

.....

W.P.(C)No.24309 OF 2005

.....

DATED THIS THE 12TH JUNE, 2007

J U D G M E N T

Ext.P3 order of the learned Munsiff directing the plaintiff in a suit for recovery of possession on the strength of title to file valuation statement under Section 30 of the Court Fees and Suits Valuation Act and related provisions is under challenge. The order is assailed by the learned counsel for the petitioner who relies on the judgment of this Court in **Abdul Razack v. Anjaneyan** (2002 (2) KLT 670) and the judgment of the Supreme Court in **Sathappa Chettiar v. Ramanathan Chettiar** (AIR 1958 SC 245).

2. I cannot agree. I do not find any warrant justifying invocation of the visitorial jurisdiction of this Court under Article 227 of the Constitution, against Ext.P3. Concededly, the suit was one covered by Section 7(3) of the Kerala Court Fees and Suits Valuation Act. For such a suit, it is obligatory under Section 10 of the Act that the petitioner files a valuation statement in terms of Rule 5 of the Kerala Court Fees and Suits Valuation Rules. Such a statement was not filed in this case by the petitioner. Going by the plaint schedule description, the suit property takes in an old dilapidated building which fetches an annual rent of Rs.2400/-. It was contended by the defendant that a

building as claimed by the plaintiff does not exist at all in the plaint schedule property and that it was demolished and in its place a brand new building much more valuable has been put up. Since an issue was raised on the propriety of the valuation and sufficiency of court fee, the learned Munsiff permitted the parties to adduce evidence and there was material before the learned Munsiff to show that the plaintiff's claim that the property takes in an old dilapidated building is not correct. In that way, the learned Munsiff was correct in her view that the annual income from the property was not what had been alleged by the plaintiff. Above all, the provisions of Section 10 and Rule 5 are mandatory and under the impugned order, the court below has only directed to file a fresh valuation statement and to pay proper court fee. The petitioner, according to me, does not have to be aggrieved by Ext.P3. Naturally, once valuation statement is filed and proper court fee is paid, the court will hear the parties and decide as to whether the fresh valuation submitted by the plaintiff is proper and whether the court-fee paid by him is sufficient.

The challenge against Ext.P3 fails and the Writ Petition is dismissed. No costs.

(PIUS C.KURIAKOSE, JUDGE)

tgl